

**OFFICE OF THE FEDERAL PUBLIC DEFENDER
DISTRICT OF MARYLAND**

NORTHERN DIVISION
TOWER II, NINTH FLOOR
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2705
TEL: (410) 962-3962
FAX: (410) 962-0872
TOLL FREE: (855) 213-8450
EMAIL: Katherine_Newberger@fd.org

JAMES WYDA
FEDERAL PUBLIC DEFENDER

KATHERINE TANG NEWBERGER
FIRST ASSISTANT FEDERAL PUBLIC DEFENDER

April 19, 2021

Hon. Ellen L. Hollander
U.S. District Court
101 W. Lombard Street
Baltimore, MD 21201

Re: United States v. Hilton Thomas
Criminal Case No. ELH-97-0355 (Compassionate Release)

Dear Judge Hollander:

As of March 31, 2021, the parties had fully briefed Mr. Thomas's motion for compassionate release. Mr. Thomas is housed at FCI Berlin in New Hampshire. At the time the Government filed its Response, it noted that FCI Berlin had experienced only 23 cases of COVID-19 throughout the pandemic and had only six active cases at the time. Gov't Resp. at 14. The Government argued the low number of COVID cases at FCI Berlin was one of the reasons the Court should deny Mr. Thomas's motion for compassionate release. Mr. Thomas explained in his Reply that, in this Court's words, it would be "Pollyannaish to believe" that an institution will escape the pandemic unscathed. Reply at 13 (quoting *United States v. Wise*, ELH-18-072, 2020 WL 2614816, at *7 (D. Md. May 22, 2020)). Your Honor has proven prescient yet again: As of today, there is a full-fledged outbreak at FCI Berlin, with 148 inmates and 2 staff members testing positive. BOP, *COVID-19 Cases*, <https://www.bop.gov/coronavirus/>.

On April 6, before the outbreak began (or at least, before Mr. Thomas became aware of the outbreak and lock-down procedures began), Mr. Thomas received his first dose of the vaccine and was scheduled to receive the second dose on May 4. (Given the 4-week delay between doses, he presumably received the Moderna vaccine.) The outbreak started shortly thereafter. As Mr. Thomas explained in his Reply, vaccination does not foreclose compassionate release. Reply at 12. Indeed, courts have granted compassionate release even after the defendant received the COVID-19 vaccine. *See, e.g., United States v. Parish*, No. 2:07-cr-00578-RMG, ECF No. 158 (D.S.C. Mar. 17, 2021) (granting compassionate release to a defendant who had already received his first dose of vaccine and had previously contracted and recovered from COVID-19); *United States v. Manglona*, No. 3:14-cr-05393-RJB, ECF No. 205 at 3 (W.D. Wash. Mar. 3, 2021) ("The Court's conclusion is that vaccination during the pendency of the Motion for Compassionate Release should not, and does not, in some way trump the Court's consideration of the motion."); *United States v. Sandoval*, No. 3:14-cr-05105-BHS, ECF No. 617 at 8 (W.D. Wash. Feb. 22, 2021) (granting compassionate release to a defendant who "has already contracted COVID-19 and has received the first dose of the COVID-19 Moderna vaccine").

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Mr. Thomas has presented the Court with several circumstances, some related to COVID-19, that constitute extraordinary and compelling grounds for relief. Mr. Thomas asks the Court to grant his motion for compassionate release and to reduce his sentence to time served.

Respectfully,

/s/

Katherine Tang Newberger
First Assistant Federal Public Defender

cc: Zachary Stendig, Assistant United States Attorney

Lindsey DeFrancesco, Special Assistant United States Attorney

Hilton Thomas # 33062-037
FCI Berlin
Federal Correctional Institution
P.O. Box 9000
Berlin, NH 03570